

TRANSLATION

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RESOLUTION OF THE STANDING COMMITTEE (Constitutional affairs, affairs of the Prime Minister's Office and home affairs, general legal system of the State and the civil service)

(Rapporteur: MIGLIAVACCA)

approved at the session of 16 July 2013

ON THE

PROPOSAL FOR A DECISION BY THE EUROPEAN PARLIAMENT AND BY THE COUNCIL INTRODUCING A SIMPLIFIED REGIME FOR THE CONTROL OF PERSONS AT THE EXTERNAL BORDERS BASED ON THE UNILATERAL RECOGNITION BY CROATIA AND CYPRUS OF CERTAIN DOCUMENTS AS EQUIVALENT TO THEIR NATIONAL VISAS FOR TRANSIT THROUGH OR INTENDED STAYS ON THEIR TERRITORIES NOT EXCEEDING 90 DAYS IN ANY 180-DAY PERIOD AND REPEALING DECISION NO 895/2006/EC AND DECISION NO 582/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
(COM(2013) 441 final)

within the meaning of Article 144(1) and (6) of the Rules of Procedure

Notified to the President's Office on 18 July 2013

The Committee, having examined the proposal for a Decision by the European Parliament and the Council, within the meaning of Article 144(1) of the Rules of Procedure,

whereas

it introduces a simplified regime for the control of persons at the external borders based on the unilateral recognition by Croatia and Cyprus of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period;

the proposal repeals Decisions No 895/2006/EC and No 582/2008/EC of the European Parliament and of the Council;

for Croatia, as in the case of the previous 2004 and 2007 enlargements, what is known as the 'Schengen two-phase implementation process' has been followed in matters related to the Schengen *acquis*. Consequently, from the date of accession Croatia has to subject third-country nationals to a visa requirement even if they hold a uniform visa, a long-term visa or a residence permit issued by a Schengen Member State;

to avoid imposing unnecessary administrative burdens on the countries that acceded to the European Union in 2004 and 2007, the European Union authorised the optional unilateral recognition by the new Member States of visas issued by Schengen Member States. Persons holding such documents have already been subject to checks by the issuing Schengen State and are not considered a threat to public order or a risk in terms of illegal immigration;

such a regime of unilateral recognition does not affect the acceding countries' obligation to refuse entry of a person for whom an alert has been issued in its national data base for the purposes of refusing entry;

on a basis similar to that adopted in 2004 and 2007, by way of derogation from Regulation (EC) No 539/2001, this proposal aims to introduce an optional regime based on common rules authorising Croatia, on a transitional basis until its full application of the Schengen *acquis*, to unilaterally recognise as equivalent to its national visas, uniform visas, long-stay visas and residence permits issued by Schengen Member States, as well as similar documents issued by Member States not yet fully implementing the Schengen *acquis*;

this authorisation is not limited to the purpose of transit not exceeding five days, but is valid for both transit through or intended stays on its territory not exceeding 90 days in any 180-day period;

the current proposal provides that Cyprus, like Croatia, is authorised to recognise Schengen visas until the end of the transitional period and the full participation of the two Member States concerned in the area without internal borders;

it should be noted that:

the proposed Decision is based on Article 77(2)(a) and (b) of the Treaty on the Functioning of the European Union, as it constitutes a measure concerning the common policy on visas and other short-stay residence permits as well as the checks to which persons crossing external borders are subject;

the proposal is in line with the principle of subsidiarity, which states that in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objective of the proposed action cannot be sufficiently achieved by the Member States. As the objective pursued by this proposal requires derogation from existing Union law it can only be attained through action at Union level;

the proposal complies with the proportionality principle since the initiative is temporary and applicable until the date of these Member States' full integration into the common area without internal borders, this being the date from which the mutual recognition regime becomes compulsory. This is justified, in addition, by the need to avoid imposing unnecessary administrative burdens;

in the light of the above, the Committee gives a favourable opinion.